



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

JOSEPH E. MACON,

Plaintiff,

vs.

HAYNE AUTO SALES,

Defendant.

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CIVIL ACTION NO. 6:05-3378-HFF-BHH

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE

This is a *pro se* action. The matter is before the Court for review of the report and recommendation (Report) of the United States Magistrate Judge in which she recommends that the Court dismiss the case *without prejudice* and without issuance or service of process. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or may recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed her Report on December 5, 2005, and Plaintiff failed to file any objections to the Report. In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir.1985).

After a thorough review of the Report and the record in this case pursuant to the standards set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the case must be, and hereby is, **DISMISSED** *without prejudice* and without issuance or service of process.¹

IT IS SO ORDERED.

Signed this 29th day of December, 2005, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹The Court notes that, in another case filed by Plaintiff, he appears to move the Court to recuse itself from consideration of that matter. *Macon v. State of S.C.*, C.A. No. 6:05-3330-HFF-BHH, slip op. at 2 (D.S.C. Dec. 29, 2005). To the extent that Plaintiff meant for that request to include this matter as well, for the reasons set forth in the Court's December 29, 2005, Order in *Macon v. State of S.C.*, Plaintiff's request is hereby denied.